

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

KITCHEN WINNERS NY INC.,

Plaintiff,

v.

ROCK FINTEK LLC,

Defendant,

Civil Action No. 22-cv-05276-PAE

ROCK FINTEK LLC,

Counterclaim and Third-
Party Plaintiff,

v.

KITCHEN WINNERS NY INC,

Counterclaim Defendant,

and

ADORAMA INC., HERSHEY WEINER,
JOSEPH MENDLOWITZ, JNS CAPITAL
HOLDINGS LLC and JOEL STERN,

Third-Party Defendants.

ROCK FINTEK LLC'S EXPERT WITNESS DISCLOSURE

Pursuant to Fed. R. Civ. P. 26(a)(2) and the scheduling order in this case, Defendant and Counterclaim-Plaintiff Rock Fintek LLC, by and through their undersigned counsel, respectfully makes the following expert disclosures:

Retained Experts

1. Jason Poulton, Ph.D. See attached expert report.
2. John Carson, Jr, Ph.D. Expert report to be produced on or before December 25, 2023, in accordance with the Court's Order.

Non-Retained Expert

Rock Fintek expects to call Thomas Kato as a non-retained expert witness to testify regarding the value Rock Fintek's lost business with Ascension based on his experience dealing with Ascension Health and familiarity of the business activities and financial status of Rock Fintek.

The factual basis for Mr. Kato's expert testimony is the information produced in discovery, including the records of Rock Fintek's business with Ascension, his and Mr. Gilling's deposition, as well as his personal experience as the sole member of Rock Fintek, knowledge of the facts underlying Rock Fintek's relationship with Ascension Health and his experience as an entrepreneur. Mr. Kato is expected to also rely on the deposition testimony of Ascension Health including that it was "highly likely" that Rock Fintek would have continued doing business with Ascension Health in the near term and that other pandemic-era vendors continue to do business with Ascension Health to this day.

Mr. Kato is expected to testify that Rock Fintek's loss of the Ascension relationship was worth in excess of tens of millions of dollars in lost profits that Rock Fintek expected to enjoy from that relationship even in the near term. Mr. Kato expects to testify that Rock Fintek would have earned but has lost *at least* approximately \$36 million per year in profits for at least three years that it had been earning from its relationship with Ascension and had reasonably expected to continue earning for the foreseeable future, which Ascension testified was "highly likely." Mr. Kato expects to further base his opinion on the fact that between March 2020 and February 2021, Rock Fintek sole to Ascension Health various personal protective equipment, including gloves,

gowns and masks, in an amount of approximately \$32 million that is unrelated to any of the Medcare gloves transactions at issue in this lawsuit. Mr. Kato is further expected to rely on Rock Fintek bank account statements, invoices and purchase orders with Ascension Health and records of transactions with pertinent suppliers that Rock Fintek was able to locate upon a reasonable search, and has produced concerning these transactions.

Mr. Kato will further testify as to the business development efforts that resulted in Rock Fintek being chosen from numerous applicants to serve as an approved PPE supplier during a time when Ascension's pre-existing PPE supply chains had been disrupted by the COVID pandemic, the origins of its business relationship with Ascension, and the factual reasons for why Rock Fintek expected to continue serving as an approved PPE supplier to Ascension, including opportunities to bid on a multi-year contract to provide approximately \$1 billion per year of Ascension's PPE acquisitions and Rock Fintek's steps in furtherance of those efforts including steps taken to obtain required FDA certifications.

December 18, 2023

Respectfully submitted,

ROCK FINTEK LLC

By its attorneys,

/s/Phillip Rakhunov

Phillip Rakhunov

Lauren A. Riddle (*Admitted Pro Hac Vice*)

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Certificate of Service

The undersigned certifies that this document is being electronically served by email on counsel of record for the parties on December 18, 2023.

/s/Phillip Rakhunov